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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIC C. ANDERSON, ROBERT PAUL MORRIS,
and LYNN ERICH PETERSEN

Appeal 2009-011531
Application 09/625,398
Technology Center 2100

Before JEFFREY S. SMITH, JASON V. MORGAN, and
MICHAEL R. ZECHER, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-10 and 12-40, which are all the claims remaining in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Invention

Appellants' invention relates to a system and method for hosting entity-specific photo-sharing websites for entity-specific image capture devices. The system and method provide software for the entity-specific image capture devices that causes the image capture devices to transmit entity ID information when the image capture devices transmit images over the Internet. The system and method further provide an online photo-sharing service capable of hosting the entity-specific photo-sharing websites for each of the entities, such that when the image capture devices connect to photo-sharing service, the photo-sharing service uses the entity ID received from the image capture devices to automatically associate the image with the photo-sharing website of the identified entity. Abstract.

Representative Claim

1. A method for providing access to respective entity-specific photo-sharing websites for a plurality of entities, each entity controlling a set of entity-specific network-enabled image capture devices, the method comprising:

providing an online photo-sharing service configured to provide access to the respective entity-specific photo-sharing websites for each of the entities, wherein one or more of the entity-specific photo-sharing websites is customized in appearance to a corresponding one or more of the plurality of entities; and

providing software for the entity-specific network-enabled image capture devices, including a TCP-IP protocol stack that enables wireless communication between the entity-specific network-enabled image capture devices and the online photo-sharing service via a wireless Internet connection, that causes the entity-specific network-enabled image capture

devices to wirelessly transmit entity ID information when the entity-specific network-enabled image capture devices wirelessly transmit images to the photo-sharing service over the Internet connection, wherein when the entity-specific network-enabled image capture devices wirelessly connect to the photo-sharing service via the wireless Internet connection, the photo-sharing service uses the entity ID received from the entity-specific network-enabled image capture devices to automatically associate the images received from the entity-specific network-enabled image capture devices with the photo-sharing website of the identified entity.

Examiner's Rejections

Claims 1-10 and 12-40 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Anderson (US 6,567,122 B1).

ISSUE

Has the Examiner erred in finding that Anderson discloses software “that causes the entity-specific network-enabled image capture devices to wirelessly transmit entity ID information when the entity-specific network-enabled image capture devices wirelessly transmit images to the photo-sharing service over the Internet connection” and “the photo-sharing service uses the entity ID received from the entity-specific network-enabled image capture devices to automatically associate the images received from the entity-specific network-enabled image capture devices with the photo-sharing website of the identified entity” as recited in claim 1?

FINDINGS OF FACT

1. Anderson describes a method and system for implementing internet access to images stored in a digital image capture unit including an

imaging device and a display. The image capture unit is used to capture images and store them within its internal memory. The image capture unit accesses an ID server via the internet and registers its identity and internet address with the web server. A user subsequently accesses the image capture unit by entering the identity of the image capture unit into his web browser. The web browser, using standard internet protocols, then queries the ID server with the identity of the image capture unit and retrieves the internet address. The internet address is subsequently used to access a web page hosted by the image capture unit and display the web page to the user. The web page provides access to the stored images within the image capture unit. Abstract; col. 9, ll. 19-50; col. 14, l. 50 to col. 15, l. 44; Fig. 11.

2. Modem 801 is shown as an external modem. However, the functionality of modem 810 can be implemented directly within the electronics of camera 100 (e.g., via a modem ASIC), or alternatively, can be implemented as a software only modem executing on computer 118 within camera 100. As such, it should be appreciated that, at the hardware connectivity level, modem 801 can take several forms. For example, a wireless modem can be used in which case the camera is not connected via an external wire to any land line. Alternatively, there may even be applications in which camera 100 includes suitable electronic components enabling a connection to a conventional computer system network (e.g., ethernet, Apple talk, etc.), which is in turn, directly connected to the internet (e.g., via a gateway, a firewall, etc.), thereby doing away with the requirement for an ISP. Hence, it should be appreciated that the present invention is not limited to any particular method of accessing the internet 750. Col. 12, ll. 5-22.

PRINCIPLES OF LAW

The allocation of burdens requires that the USPTO produce the factual basis for its rejection of an application under 35 U.S.C. §§ 102 and 103. *In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d 1011, 1016 (CCPA 1967)). The one who bears the initial burden of presenting a prima facie case of unpatentability is the Examiner. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

ANALYSIS

Appellants contend that Anderson does not disclose software “that causes the entity-specific network-enabled image capture devices to wirelessly transmit entity ID information when the entity-specific network-enabled image capture devices wirelessly transmit images to the photo-sharing service over the internet connection” as recited in claim 1. Br. 21. The Examiner finds that Anderson does describe capture devices that wirelessly transmit entity ID information when the capture devices wirelessly transmit images to the photo-sharing service over the Internet connection. Ans. 22-24 (citing Anderson col. 12, ll. 5-22).

The portion of Anderson cited by the Examiner describes a wireless modem. FF 2. However, the cited portion does not appear to describe software that causes the capture device to wirelessly transmit entity ID information when the capture device transmits images over an Internet connection.

Anderson does describe causing a capture device to transmit ID information to an ID server. However, Anderson does not appear to

describe transmitting images along with the ID information that is transmitted to the ID server. Rather, the system of Anderson appears to transmit the ID information from the capture device to the ID server before transmitting images from the capture device to a user's computer. FF 1. The Examiner has not explained how Anderson describes "software ... that causes the entity-specific network-enabled image capture devices to wirelessly transmit entity ID information when the entity-specific network-enabled image capture devices wirelessly transmit images to the photo-sharing service over the Internet connection" as recited in claim 1.

Appellants further contend that Anderson does not describe "wherein when the entity-specific network-enabled image capture devices wirelessly connect to the photo-sharing service via the wireless Internet connection, the photo-sharing service uses the entity ID received from the entity-specific network-enabled image capture devices to automatically associate the images received from the entity-specific network-enabled image capture devices with the photo-sharing website of the identified entity" as recited in claim 1. Br. 22-23. The Examiner has not responded to Appellants' contention, nor has the Examiner explained how Anderson describes using the entity ID to automatically associate the images received from the capture devices with the photo-sharing website of the identified entity.

Independent claims 10, 23, 34, and 35 contain limitations similar to those recited in claim 1 for which the rejection fails.

CONCLUSION OF LAW

The Examiner erred in finding that Anderson discloses software "that causes the entity-specific network-enabled image capture devices to

wirelessly transmit entity ID information when the entity-specific network-enabled image capture devices wirelessly transmit images to the photo-sharing service over the Internet connection” and “the photo-sharing service uses the entity ID received from the entity-specific network-enabled image capture devices to automatically associate the images received from the entity-specific network-enabled image capture devices with the photo-sharing website of the identified entity” as recited in claim 1.

DECISION

The rejection of claims 1-10 and 12-40 under 35 U.S.C. § 102(e) as being anticipated by Anderson is reversed.

REVERSED

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